

ORIGINAL

FILED  
U.S. DISTRICT COURT  
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

2006 JAN 20 PM 1:10

AUGUSTA DIVISION

CLERK J. Burton  
SO. DIST. OF GA.

JAMES W. CHRISTOPHER,

Plaintiff,

v.

CV 105-089

AUGUSTA STATE MEDICAL PRISON,  
et al.,

Defendants.

**ORDER**

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation to which no objections have been filed. Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Plaintiff's claims for monetary damages against the individual defendants in their official capacities are **DISMISSED**, and Defendants ASMP Dialysis, Whitaker, and Howerton are **DISMISSED**.

The Court also notes Plaintiff's pending motions to compel discovery and to amend his complaint. (Doc. nos. 13, 14). As no defendant has been served with the original complaint and no responsive pleading has been filed, Plaintiff may amend as a matter of right, and the instant motion to amend (doc. no 14) is **MOOT**. Fed. R. Civ. P. 15(a). On the other hand, the motion to compel (doc. no. 13) is summarily **DENIED** as premature. As no defendant has yet been served with the complaint or filed an answer, this case has not yet

progressed to the discovery stage. In addition, this Court's Local Rules require litigants to certify that they have made a good faith effort to resolve any discovery dispute with their opponents before seeking court intervention. See Loc. R. 26.5. Discovery motions lacking such a certification may be summarily denied on that basis alone. See Layfield v. Bill Heard Chevrolet Co., 607 F.2d 1097, 1099 (5th Cir. 1979)(motion may be summarily denied for failure to follow Local Rule). Once the defendants have been served with the complaint and filed an answer, Plaintiff should direct his discovery requests to defense counsel before seeking court intervention.

SO ORDERED this 20<sup>th</sup> day of January, 2006, at Augusta, Georgia.

  
UNITED STATES DISTRICT JUDGE